

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

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June 24, 2016

The Honorable Timothy G. Massad  
Chairman  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

Dear Chairman Massad:

We write to request a briefing regarding a current proceeding before the Commodity Futures Trading Commission (CFTC) to allow private rights of action to enforce certain violations of the Commodity Exchange Act (CEA) over electricity-related products and instruments traded in electricity markets administered by Regional Transmission Organizations and Independent System Operators (RTO/ISO). As the House Committee with jurisdiction over the Federal Energy Regulatory Commission (FERC), we are concerned about the impact that such a proposal could have on wholesale electricity markets

Pursuant to the Federal Power Act, FERC oversees RTO/ISO markets and the physical and virtual products traded within these markets, such as Financial Transmission Rights. The Federal Power Act as amended by the Energy Policy Act of 2005 specifically precludes a private cause of action. Rather, these markets are currently subject to comprehensive regulatory review, including FERC approval, oversight, and enforcement. Each RTO/ISO operates pursuant to a FERC-approved tariff which includes market and operational rules that provide structural market behavior protections. FERC specifically authorizes energy market participants' physical and virtual trading under such tariff-based rules and protocols. Moreover, market monitors provide additional independent market oversight, including continuous and extensive review of RTO/ISO rules and oversight of market behavior.

We are concerned that CFTC's proposal could adversely affect FERC's fundamental statutory missions of ensuring just and reasonable rates in wholesale electric markets and ensuring the reliability of the electric grid. Electricity is a commodity unlike any other and we are concerned that CFTC efforts to authorize private rights of action over RTO/ISO physical and

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virtual products could create uncertainty and adversely affect the efficient operation and regulation of electricity markets, a result never intended by Congress.

Therefore, we request a briefing on this proceeding as soon as possible, but no later than July 15, 2016. Please contact Tom Hassenboehler with the Majority Staff at (202) 225-2927 or Rick Kessler with the Minority Staff at (202) 225-3641 if you have any questions.

Sincerely,



Fred Upton  
Chairman



Frank Pallone  
Ranking Member